

**From:** pam.giblin@bakerbotts.com [pam.giblin@bakerbotts.com]  
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## CARB's Nichols Would Accept EPA Administrator Nomination Under Biden

California air board chief Mary Nichols says she would accept the job of EPA administrator if offered the post under a Biden administration, and believes her experience with pioneering climate change and air programs in the Golden State could shape future national policies, especially if Democrats take control of Congress after the Nov. 3 elections.

Nichols in an exclusive Oct. 26 interview with *Inside EPA* says she has been “approached by people who say ‘Look, you’re the right person to come and send a message, because you’ve got the climate experience, and EPA experience, you know the agency well . . . how it functions internally, and you could be the right person to come in and put it back on its feet again.’”

She adds: “And if that’s true, if the new administration decides that that’s what they want, then, you know, I am prepared to put my plans on hold and go do this job. But it’s not the kind of thing you can campaign for, even if you wanted to. And I don’t want to campaign for it.”

At the same time, she says “it’s way too early to be doing this kind of speculating” about potential agency nominations under a scenario where Democratic presidential nominee Joe Biden beats President Donald Trump in the election.

Nichols says she has previously been “next in line to be EPA administrator several times now, and I haven’t done it.”

Nichols, who was EPA air chief from 1993 to 1997 during the Clinton administration, is stepping down as chair of the California Air Resources Board (CARB) at the end of this year after serving in that position for the past 13 years.

She and other California officials have clashed repeatedly with the Trump administration, particularly over EPA's recission of the state's unique Clean Air Act authority to set stricter vehicle greenhouse gas standards than the federal government.

Nichols says reversing the Trump's administration's numerous environmental policy rollbacks would be one of her first priorities, along with trying to restore the scientific credibility of the agency.

"I have talked to a number of people who are Washington insiders, who -- and I've seen for myself of course in the motor vehicle program, how weakened EPA is. And that's not just because of the horrific political environment that they operate in, but also because as a result of that, or a reaction to it, people have left. Some have retired early, some positions have not been filled. It's a smaller, less-powerful agency than it was when I was there. And that is a terrible thing for the country. It really is."

During her CARB tenure, Nichols has overseen the development of multiple major climate programs that California officials argue could be models for other states or even the country. For example, the state's GHG cap-and-trade program covers much of the state's economy, and CARB has been revising various market rules amid sometimes competing critiques from industrial sectors, environmental justice groups and Democratic state lawmakers who argue the program should be more stringent in an effort to drive deeper GHG and air pollution cuts.

## **Major California Programs**

Several Golden State climate rules are considered novel, including its low-carbon fuel standard (LCFS), zero-emission vehicle (ZEV) sales mandate for light-duty vehicles, recently final ZEV sales mandate for medium- and heavy-duty trucks, as well as its planned GHG rules for ride-hailing companies that are expected to produce a growing share of transportation sector emissions.

Nichols is optimistic about pursuing some of these programs at the national level, but says doing so would be complicated.

"One example would certainly be the [LCFS], which would be a replacement" for EPA's current renewable fuel standard (RFS), which is a "mandate for renewable gasoline -- it's an ethanol mandate, basically," she says.

The LCFS is "so much more effective" than the RFS, Nichols argues. "And even the ethanol industry I believe has come to recognize that California's approach -- which they resisted mightily at first because they thought it was California-centric, and the Midwestern corn

growers wouldn't stand a chance in that market -- is now the best market that they have, because it's objective. It's not based on preference for any particular part of the country, or any particular fuel, other than whatever reduces carbon in the fuel supplies the most. And it's attracted new businesses to California, new technologies for making low-carbon fuels, as well as [more benefits] for the electric battery industry and charging industry. So . . . that is a policy that should be implemented at the federal level."

However, it is unclear if EPA could implement a federal LCFS without new legislation. "And although I'm not going to say that I know this for sure, but given the investment that has been in this program over the years by the Congress, it's hard to imagine that you could do that without approval."

Nonetheless, a national LCFS is "very much worth doing. And I think it has the ability to attract broad support because of the fact that California has implemented the program successfully, despite early opposition -- particularly from the oil industry but also, as I said, from the ethanol industry as well. And it wasn't one that even the environmental community was all that excited about. I mean, they weren't opposed, but it wasn't one of their favorite programs. And now it has become clear that it's effective and useful well beyond even climate. That it's really helped to foster technologies and broaden the market, all those good things."

## **Carbon Price**

Nichols says another critical area that she would focus on as Biden EPA administrator is a "market-based" program to reduce GHGs, such as a cap-and-trade system.

"There's a number of things that are in play there, and I don't believe that just trying to translate the [CARB] program to a national program is the right way to go. I think it's way more complicated than that. I hope that we have -- you know, I hope that EPA and I would have an important role in this. That's one of the reasons why EPA -- again, if I were there -- one of the reasons that EPA needs to be a part of the conversation is because they are the source of the basic information about emissions. They are the repository of that information. And they have a lot of very detailed knowledge about what different industries as a whole are contributing to the overall greenhouse gas emissions. And, you know, what technologies are available to deal with it. So, knowing something about the history of how that program came into being, what the challenges and pitfalls were, I think will be useful for the conversation."

If Biden wins and Democrats take full control of Congress, Nichols expects fast action on sweeping climate legislation.

“I think there will be a major push for a price on carbon -- how exactly that will be put forward and where they’re going to be able to get enough votes to put something into effect, I certainly can’t say,” she says. “But absolutely that’s going to be on the agenda early on . . . [in part] because we want to fund a lot of transformative activities, beginning with the transportation system. And the electric utilities. And there’s no shortage of ideas, and there’s also no shortage of players from the climate sector who are putting forward proposals and have a really strong interest in seeing some system, some effective system for pricing carbon, put into effect.”

## **Racism Allegations**

If Biden wins the election and nominates Nichols as EPA chief, she may face questions about a recent controversy at CARB where a group of anonymous Black employees accused the agency of institutional racism with a series of anecdotes, including allegations that Black employees are not paid as high as their peers and they are passed over for promotions more often than others.

CARB last week adopted a resolution to address the alleged racial inequities in its internal operations and broader policies.

One industry consultant said some Republicans and Democrats, such as Sen. Cory Booker (D-NJ), could ask Nichols about her involvement in the controversy or her efforts to address it, during a future confirmation hearing.

“I would expect him to, I would hope he would,” Nichols says of Booker under such a scenario. “I hope it will come up for whoever is nominated and goes through confirmation and that there’s an opportunity to talk about it.”

But she clarifies that CARB’s resolution was not a direct product of the Black employees’ letter sent to management in September. “There’s a coincidence of timing here, which I think made it seem as though the board resolution was instigated by the employee letter,” she explains. “It’s actually, I think, the opposite -- that is, the board took up this topic in an outward-facing direction as part of our reaction to what we were hearing at the community level about how the AB 617 [community air pollution protection] program was going. And a reaction, which I think reflects what, you know, pretty much everybody in the country had in one way or another to the killing of George Floyd and the huge upwelling of protests around the country, including in California against police violence. So that was what began the process of doing a board resolution.”

In the interim, “our employees organized at the request of our executive officer a diversity task force to look at our own internal operations. And that letter came in, and then the executive officer immediately distributed it and you know the rest of the story,” she says.

Nevertheless, Nichols says the “employee input there was serious and it was quite sobering, and it led to and will lead to more action inside the organization to improve our hiring practices. Pretty much everybody who spoke [at an Oct. 22 board meeting] indicated that CARB was not worse -- and in some ways might be better -- than other organizations, other agencies, even within state government. But that just means that we all have to be looking at ways to improve.”

Further, “there are some issues that relate to state government as a whole -- some hiring practices, and regulations that limit how you can recruit from outside government and so forth -- that are impediments across the board that we have to identify and get rid of. That’s the structural, the racism part of the equation.” -- *Curt Barry* ([cbarry@iwpnews.com](mailto:cbarry@iwpnews.com))

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Pamela M. Giblin  
Office (512) 322-2509  
Cell (512) 422-6821

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